

IN RE: PETITION FOR ZONING VARIANCE
W/S Stengel Avenue, 260' S of
Alvah Avenue
(1752 Stengel Avenue)
12th Election District
7th Councilmanic District
Raymond A. Ricci, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-460-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 1 foot in lieu of the minimum required 10 feet for a proposed carport in accordance with Petitioner's Exhibit 1.

The Petitioners, Raymond A. and Stephanie Ricci, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 1752 Stengel Avenue, consists of .165 acres zoned D.R. S.5 and is improved with a single family dwelling and accessory shed. Petitioners are desirous of constructing a carport on the south side of the subject dwelling, as depicted on Petitioner's Exhibit 1, to provide protection during inclement weather. Petitioners also testified the proposed carport will eliminate the need to replace existing awnings over the porch and windows on that side of the dwelling and extend the useful life of at least two of the three family vehicles. Testimony indicated that due to the size of the lot and the location of existing improvements thereon, the requested variance is necessary in order to construct the proposed carport. Testimony indicated the relief requested will not result in any detriment to the health safety or general welfare of the surrounding community. In further

support of their request, Petitioners submitted a letter of approval from the adjoining affected property owner.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 5th day of August, 1991 that the Petition for Zoning Variance from Section 1B02.3.C.1 of the B.C.Z.R. to permit a side yard setback of 1 foot in lieu of the minimum required 10 feet for a pro-

posed carport, in accordance with Petitioner's Exhibits 1, 3 and 5, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The subject carport shall not be enclosed at any time and shall remain open on the three exposed sides.
- 3) Petitioners shall provide adequate guttering and rainspouts on the proposed carport to divert any water runoff away from the adjoining property.
- 4) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 8/8/91
By [Signature]

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: **91-460-A**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1B02.3.C.1 of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

To permit a side yard setback of one foot in lieu of the required 10' 10" D.R. S.5 ZONE

Please see Attachment for Raymond A. Ricci.
Detailed explanation of hardship and practical difficulty.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this petition.

Contract Purchaser:	Legal Owner(s):
<u>Raymond A. Ricci</u> (Type or Print Name)	<u>Raymond A. Ricci</u> (Type or Print Name)
<u>[Signature]</u> Signature	<u>[Signature]</u> Signature
<u>Stephanie A. Ricci</u> (Type or Print Name)	<u>Stephanie A. Ricci</u> (Type or Print Name)
<u>[Signature]</u> Signature	<u>[Signature]</u> Signature
Address	1752 Stengel Avenue (301) 282-8910 Address Phone No.
City and State	Baltimore, Maryland 21222 City and State
Attorney for Petitioner:	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
<u>[Signature]</u> (Type or Print Name)	<u>[Signature]</u> Name
<u>[Signature]</u> Signature	<u>[Signature]</u> Address Phone No.
Attorney's Telephone No.:	

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at _____ o'clock _____M.

REVIEWED BY: [Signature] DATE: 8-15-91
Zoning Commissioner of Baltimore County.

PETITION FOR ZONING VARIANCE

Hardship and Practical Difficulty
Attachment for Raymond A. Ricci
1752 Stengel Avenue
Baltimore, Maryland 21222

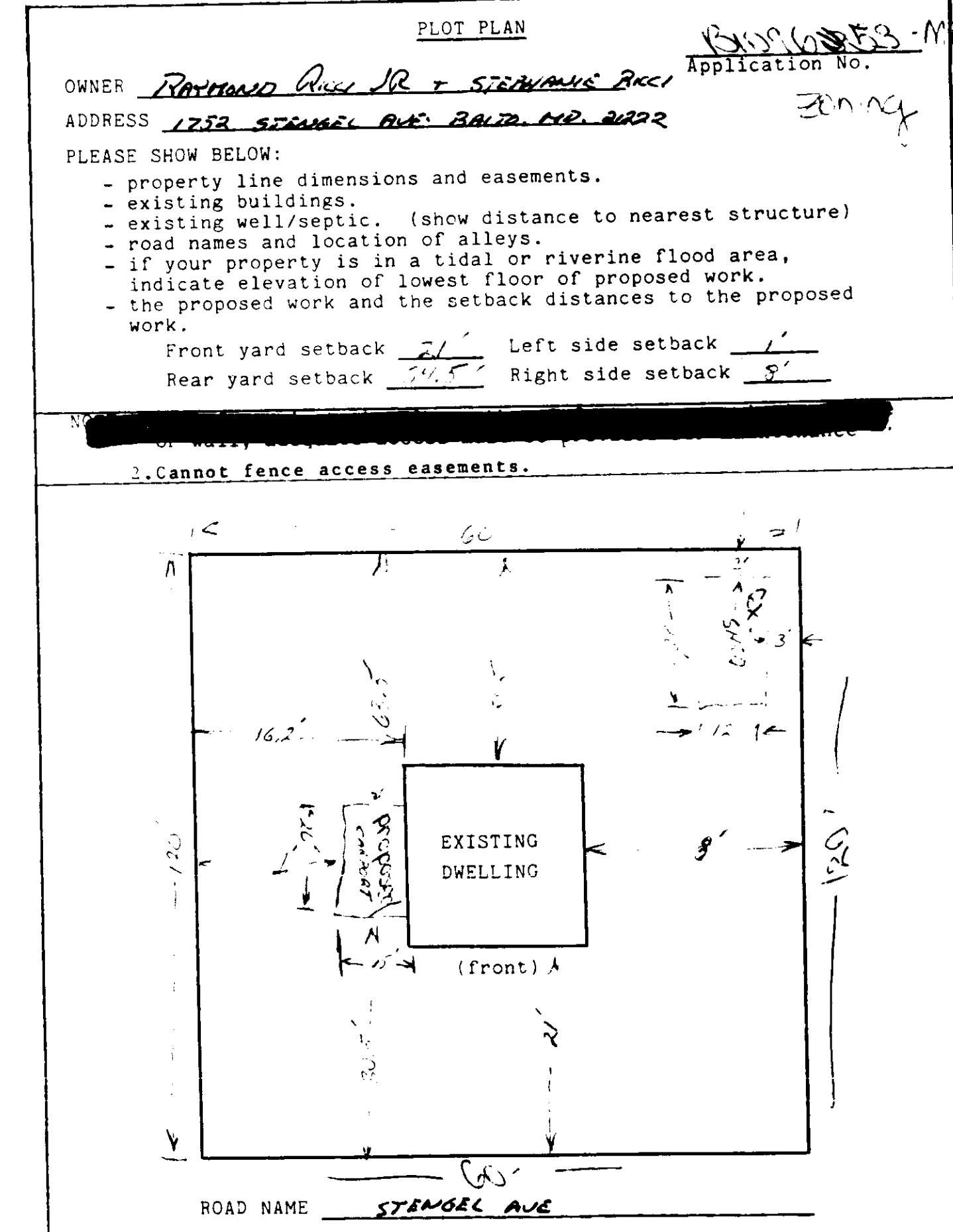
- (1). Owners have two small children which need to be transported five days a week. Sheltered access to a motor vehicle would eliminate the hazard of slick steps and road surfaces while loading and unloading the vehicle.
- (2). Building under the current zoning law with the support columns two feet or more inside the property lines would place the support columns in the driveway leaving little or no room for the vehicle to pass the steps. As a result, it would become difficult to walk past the vehicle to enter the back porch as well as close the doors of the vehicle.
- (3). Permission to build the carport would also satisfy the need for replacement awnings over the porch and side windows.
- (4). The owners have three vehicles and the proposed carport would shelter two of them and help extend the useful life of these vehicles.
- (5). The owners cannot afford, nor would it be practical to relocate to a house with a larger lot or attached garage.

DESCRIPTION

Raymond A. Ricci
1752 Stengel Avenue
Baltimore, Maryland 21222
(301) 282-8910

Beginning at a point on the West side of Stengel Avenue which is ten foot wide at the distance of 260' North of the Centerline of the nearest improved intersecting street of Alvah Avenue which is 40' wide, being Lot Numbers 564, 565, 566, Block Number _____, Section Number S.E. 3-E in the subdivision of Kimberly Farms as recorded in Baltimore County Plat Book Number W.P.C. No.7, Folio 127 containing 7200 square feet also known as 1752 Stengel Avenue and located in the Number 12 Election District.

91-460-A



10/82

April 31, 1991
Dear Raymond Ricci,
We are satisfied with your plans and you have our approval to construct your carport.
Sincerely,
Daniel J. Pincus
Timothy Pincus

91-460-A

PETITIONER'S
EXHIBIT 2

Raymond A. Ricci
1752 Stengel Avenue
Baltimore, Maryland 21222
Phone (301) 282-8910

April 16, 1991

Dear Mr. & Mrs. Paciocco,

The reason I am writing to you is to receive your approval for a carport that I am planning to construct. In order for the carport to be practical, the support columns must be located one foot from the fence so that the car can pass between the column and side steps. Zoning regulations for this area prohibit a one foot distance from the fence.

I am currently in the process of receiving a zoning variance for my property that will allow me to build the carport. I want to assure you that there will be no inconvenience to Debbie nor any damage to your lawn throughout construction of the carport.

I have talked to Debbie and she seemed to be satisfied with my plans. However, I would like to receive your approval as owners of the property.

Two sets of elevation plans are enclosed for your review. If you are satisfied with my plans, I would greatly appreciate a letter of approval and your initials on one set of plans.

If there are any questions, please do not hesitate to contact me. Your approval on these plans will be greatly appreciated.

Sincerely,

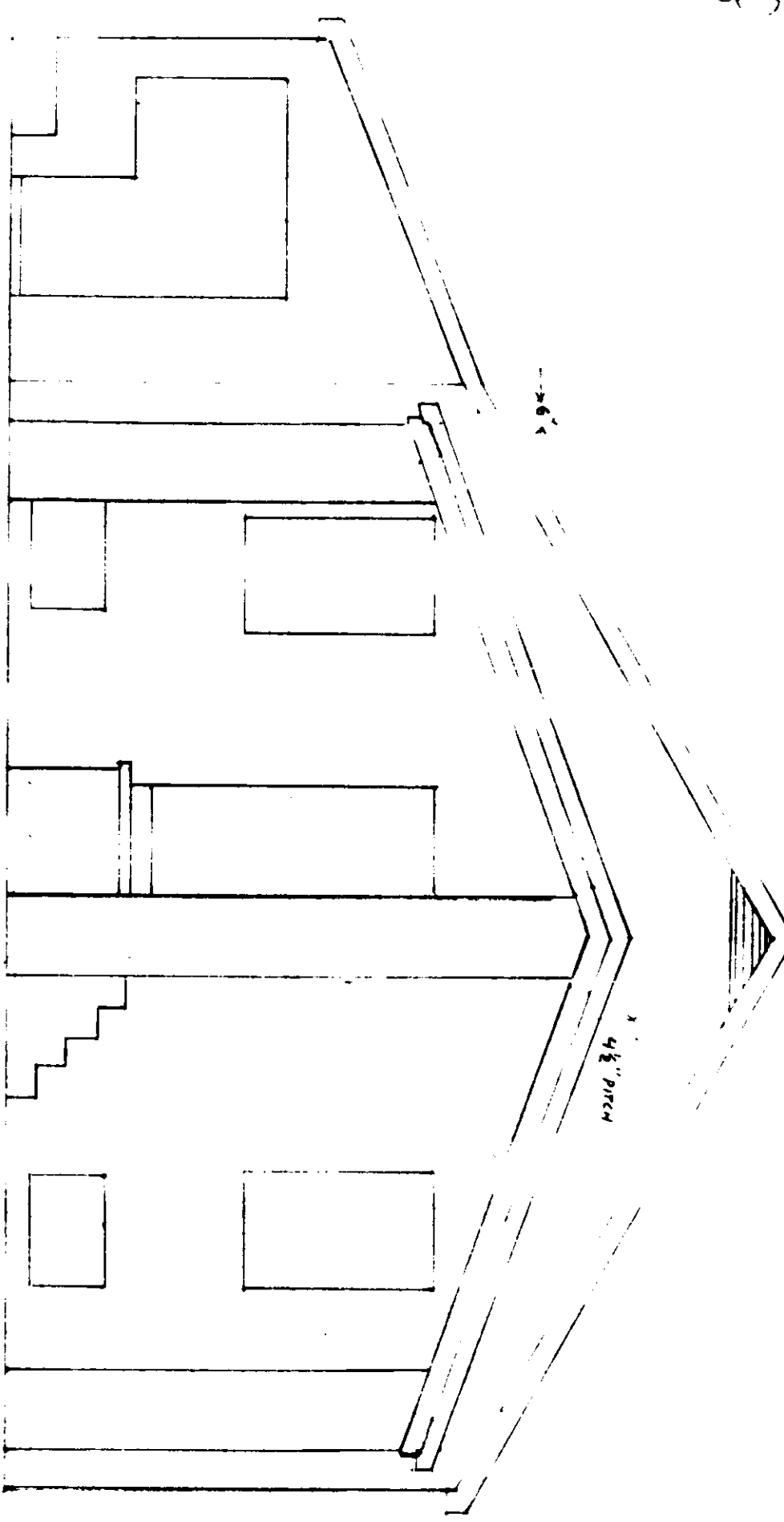
Raymond A. Ricci

Attachments

91-460-A

91-460-A

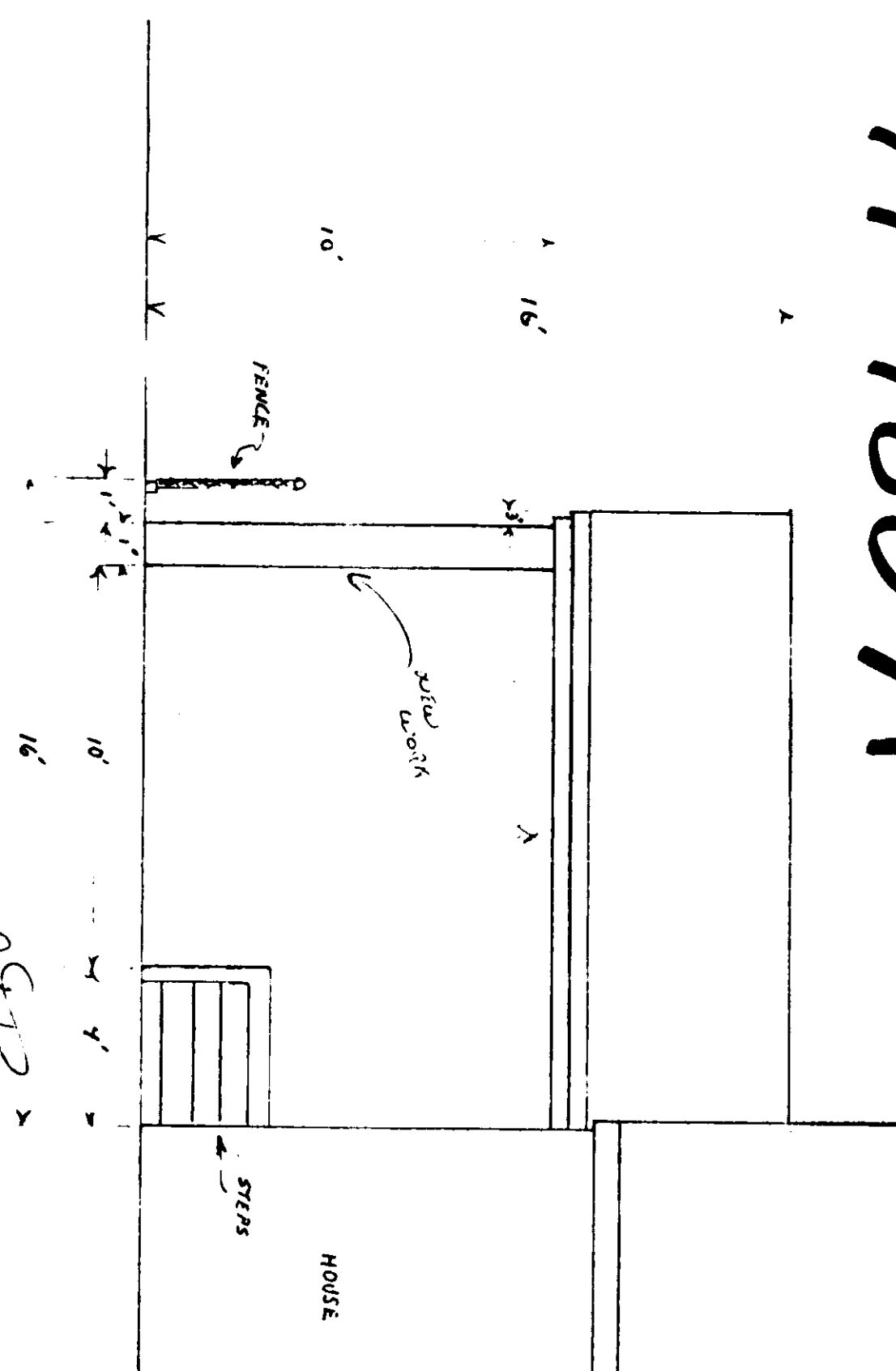
PETITIONER'S
EXHIBIT #1



CASE NUMBER 91-460-A



PETITIONER'S EXHIBIT #3

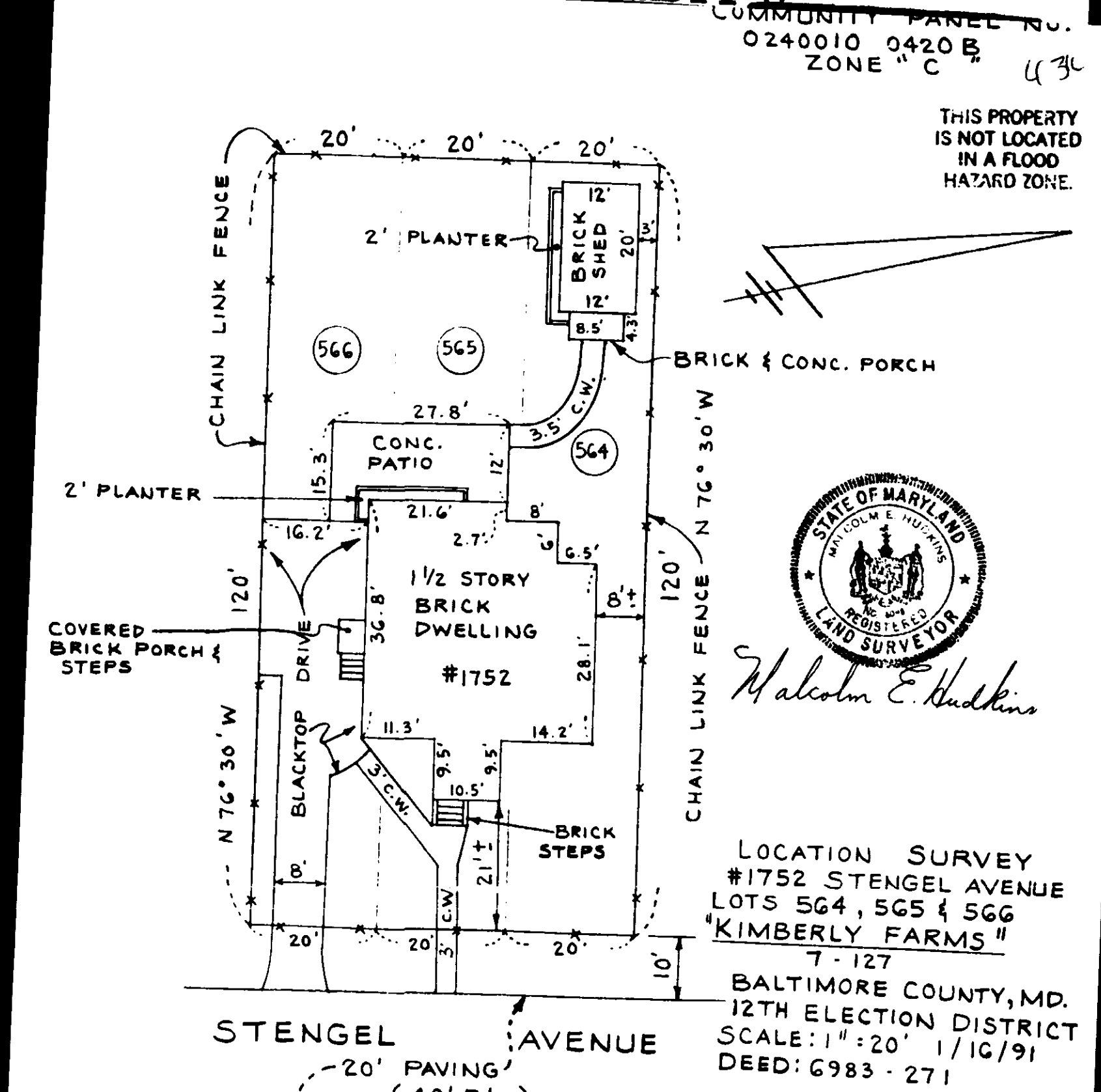


91-460-A

CASE NUMBER 91-460-A



PETITIONER'S EXHIBIT #4



91-460-A

I HEREBY CERTIFY THAT THE LOT HAS BEEN SURVEYED FOR THE PURPOSE OF LOCATING THE IMPROVEMENTS THEREON AND THAT THE IMPROVEMENTS ARE LOCATED AS SHOWN.

M. & H. DEVELOPMENT ENGINEERS, INC.
200 EAST JOPPA ROAD
ROOM 101, SHELL BUILDING
TOWSON, MARYLAND 21204
#25985

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



COPY

887 4454

DATE: 7/19/91

Mr. & Mrs. Raymond A. Ricci
1752 Stengel Avenue
Baltimore, Maryland 21222

RE:
Case Number: 91-460-A
W/S Stengel Avenue, 260' S of Alvah Avenue
1752 Stengel Avenue
12th Election District - 7th Councilmanic
Petitioner(s): Raymond A. Ricci, et ux
HEARING: TUESDAY, AUGUST 6, 1991 at 2:00 p.m.

Dear Petitioner(s):

Please be advised that \$25.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



COPY

887 4454

JUNE 19, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 116 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-460-A
W/S Stengel Avenue, 260' S of Alvah Avenue
1752 Stengel Avenue
12th Election District - 7th Councilmanic
Petitioner(s): Raymond A. Ricci, et ux
HEARING: TUESDAY, AUGUST 6, 1991 at 2:00 p.m.

Variance to permit a side yard setback of one ft. in lieu of the required 10 ft.

Zoning Commissioner of
Baltimore County

cc: Mr. & Mrs. Ricci



CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 12th Date of Posting: 7/19/91
Posted for: [Signature]
Petitioner: [Signature]
Location of property: [Signature]
Location of Sign: [Signature]
Remarks: [Signature]
Posted by: [Signature] Date of return: 7/24/91
Number of Signs: [Signature]

CERTIFICATE OF PUBLICATION

OFFICE OF Dundalk Eagle

4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222 July 4, 1991

THIS IS TO CERTIFY, that the annexed advertisement of Baltimore County Zoning Office - Notice of Hearing - Case #91-460-A - P.O. #0113068 - Rq. HM52888 - was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for One successive weeks before the 5th day of July 1991; that is to say, the same was inserted in the issues of July 4, 1991.

Kimbel Publication, Inc.
per Publisher.
By Kimbel Clarke

CERTIFICATE OF PUBLICATION

TOWSON, MD., 7/19/91

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/14/91.

THE JEFFERSONIAN,

S. Zake Olson

Publisher

\$32.83

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

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Zoning Commissioner of Baltimore County

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Date

receipt

Account R 001 6150
Number

